

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

CHRISTOPHER DENSMORE,
Defendant.

MEMORANDUM DECISION AND
ORDER DENYING SEALED
MOTION FOR CREDIT FOR TIME
SERVED

Case No. 2:08-CR-370 TS

Defendant seeks an order granting him credit for time served. The Court has ordered the Motion filed under seal because it references minors.¹ Because Defendant proceeds pro se, the Court construes his Motion liberally.

On July 8, 2009, Defendant was sentenced to 24 months in the custody of the Bureau of Prisons (BOP) for aggravated identity theft and bank fraud. He seeks an award of credit against that sentence for time he alleges he served in a halfway house. The Court notes that Defendant absconded from the halfway house for a period of time during the

¹See Fed.R.Crim.P. 49.1(a)(3); (d); *but see* 49.1(b)(6) (exempting pro se filings under 28 U.S.C. § 2241).

pretrial process.²

Calculation of time served, including any credit for time actually served in a halfway house, must be calculated by the BOP:

By statute, responsibility for the computation of the service of a sentence is an administrative responsibility conferred upon the attorney general acting through the Bureau of Prisons. 18 U.S.C. § 3568. For this reason, and because the agency is in a superior position to investigate the facts, judicial intervention is usually deferred until administrative remedies have been exhausted.³

Thus, Defendant must first exhaust all of his administrative remedies with the BOP before he seeks judicial intervention regarding the calculation of credit for time served on his sentence. Once he has done so, if he is not satisfied with the BOP's resolution of his request for time served, he may raise the issue by filing a petition under 28 U.S.C. § 2241. The BOP's administrative resolution of his request should be attached to such a petition. Such petition must be filed in the judicial district where Defendant is held in custody at the time such a Petition is filed. It is therefore

ORDERED that Defendant's pro se SEALED Motion for Credit for Time Served (Docket No. 50) is DENIED without prejudice.

DATED August 10, 2009.

BY THE COURT:



TED STEWART
United States District Judge

²See Sealed Docket No. 31 and Docket No. 36.

³*Williams v. O'Brien*, 792 F.2d 986, 987 (10th Cir. 1986) (citations omitted).